



May 6, 1999

Mr. Frank Crull
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR99-1570

Dear Mr. Crull:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124916.

The Department of Public Safety (the "department") received a request for "a copy of the actual commercial driver's license test(s) (written form, written test answers, written test results and driving results) taken by Paul Brian Daniel." In response to the request, you submit to this office for review the information at issue. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.122 of the Government Code. We have considered the exceptions and arguments you have raised and reviewed the submitted information.

Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body. "Test item" includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 at 6 (1994). The submitted written tests evaluate a commercial driver's license applicant's "knowledge or ability in a particular area." We agree that the Texas commercial driver's license written tests consist entirely of "test items" excepted from disclosure by section 552.122(b). Accordingly, you may withhold the submitted information under section 552.122(b) of the Government Code.

As we conclude that the department must withhold the submitted information based on section 552.122, we need not consider your section 552.108 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this

request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 124916

Encl.: Submitted documents

cc: Mr. Don Wheeler
Law Office of Don Wheeler
P.O. Box 1687
Center, Texas 75935
(w/o enclosures)